

Exhibit X

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

YATRAM INDERGIT, on behalf)
of himself and others)
similarly situated,)
)
Plaintiff,) CIVIL ACTION NO.
) 1:08-cv-09361-PGG-
VS.) HBP
)
RITE AID CORPORATION, RITE)
AID OF NEW YORK, INC., and)
FRANCIS OFFOR as Aider &)
Abettor,)
)
Defendants.)
_____)

DEPOSITION OF MARK DANIEL DAYTON
Los Angeles, California
Wednesday, August 10, 2011

Reported by: NIKKI ROY
CSR No. 3052

1 right?

2 A. Right.

3 Q. And you have an opportunity to say, you know,
4 okay, we need to have these things --

5 A. Yes.

6 Q. -- because they're in the ad, right?

7 A. Uh-huh.

8 Q. But I need to decide, you know, whether our store
9 is actually going to sell a ton of beach balls or
10 whether what we're going to -- we -- we're going to sell
11 more of is sun tan lotion, right?

12 A. Right.

13 MS. SCOTT: Objection; form.

14 BY MS. FALCONE:

15 Q. Okay. So -- and you had the ability to decide
16 which of the ad items you wanted how much of within
17 certain parameters?

18 A. Yes.

19 MS. SCOTT: Objection; form.

20 BY MS. FALCONE:

21 Q. Okay. You couldn't order a million bottles of
22 sun tan lotion, right?

23 A. I could.

24 Q. You -- you could do that?

25 A. Well, I mean, they -- they've called and said,

1 you know, did you really want 10,000 bottles of
2 something? No, it's a key strike error, so --

3 Q. Okay. Okay. All right. So did you as the store
4 manager have to analyze the demographics of your store
5 and what was being offered in the ad to try and figure
6 out which items you would need?

7 MS. SCOTT: Objection; form.

8 THE WITNESS: Actually, Ibrahim used to send
9 us out like the items -- every week he would send us out
10 a list of the items that we needed to order on, and if
11 we didn't order them, he would add them to our order.
12 Like if we didn't order enough, he would say, well, I'm
13 going to go into your order and I'm going to add, you
14 know, so many to your order. I -- or he'll -- he would
15 say, you know, I going to -- none of you ordered enough
16 of this, I'm going to order more of it, you know, for
17 you guys. So that would happen. He would step in and
18 he had the ability to -- to add to our orders, which he
19 would do.

20 BY MS. FALCONE:

21 Q. Right, but -- but that doesn't really answer my
22 question. In the first instance, would you as the store
23 manager sit down and conduct your own analysis of what
24 you thought your store needed based on the demographics?

25 MS. SCOTT: Objection; form.

1 THE WITNESS: Not so much based on
2 demographics, more based on their suggestions and what
3 the item was and the fact that I knew Ibrahim wanted me
4 to order a bunch of a certain type of thing, you know, I
5 would -- I would order heavier on that.

6 They had preprograms like end caps, and if
7 the item was going to be on a preprogram -- well, all
8 the -- all the end caps are preprogrammed, but the ad
9 ones, they have specific ones that they want us to do.
10 So I had to make sure I ordered enough to fill a certain
11 end cap regardless of whether I thought I could sell it
12 or not.

13 BY MS. FALCONE:

14 Q. But did you ever make decisions like, okay. I
15 know it's about to be spring break at SCSU, so maybe I
16 should order more sun block because kids are going to
17 come in and want to buy it for their spring break.

18 Did you make decisions such as that?

19 MS. SCOTT: Objection; form.

20 THE WITNESS: Not that one because sun block
21 came in automatically, big displays of it in the summer.

22 BY MS. FALCONE:

23 Q. What about alcohol, did you ever make any
24 analysis, gee, you know, we're near a college, we've got
25 a lot of college kids who probably want to buy things

1 Q. What kinds of complaints were you responsible for
2 handling?

3 A. Usually conflicts with like two different
4 employees.

5 Q. Okay.

6 A. Maybe it'd be a customer problem like a customer
7 was being inappropriate with an employee and...

8 Q. And would you make the decision as to how to
9 handle those types of issues on your own?

10 A. Those sometimes, and sometimes we'd check with
11 human resources just to be sure.

12 Q. Okay. Did you think that because you had to
13 check with human resources that that made you less of a
14 manager?

15 A. Well, it's not giving me the final say. There
16 was a lot of times when I thought she should have said I
17 could go ahead and write somebody up and then she, you
18 know, said, no, I couldn't or -- you know, it was time
19 to terminate or no, it wasn't.

20 MS. FALCONE: Okay. Let's go off the record
21 for a break.

22 THE WITNESS: Okay.

23 (Recess from 4:23 p.m. to 4:38 p.m.)

24 MS. FALCONE: Okay. Let's go back on the
25 record.

1 Q. Mr. Dayton, I am going to ask you to estimate for
2 me your average number of hours worked per week over the
3 time that you were a store manager, and I'd like to
4 start with the time period that you were in El Cajon.

5 When you were in El Cajon, how many hours per
6 week on average do you think you worked?

7 MS. SCOTT: Objection; form.

8 BY MS. FALCONE:

9 Q. And you can give me a range.

10 A. Yeah, I'm trying to remember exactly or as close
11 as possible. I would say a minimum of 60 and maximum of
12 -- I had some really big weeks there when I first
13 started there, but I was paid as assistant and I'd just
14 been moved to that store and it was right before an
15 inventory.

16 I'm going to discount those because those were
17 crazy weeks of like 100-plus hours -- or two-week
18 periods of 100-plus. So I'm going to say probably
19 generally between 60 and 70.

20 Q. Okay. After you moved to 5651, between
21 February 4, 2007 and the end of December 2007, how many
22 total hours over 40 did you work on average?

23 MS. SCOTT: Objection; form.

24 THE WITNESS: On average?

25 ///

1 BY MS. FALCONE:

2 Q. Uh-huh.

3 A. An average week.

4 Q. And again, a range is fine.

5 A. Let me think here. I'm going to say on the
6 average probably 80 hours a week.

7 Q. That's 80 total, correct?

8 A. Total, yeah.

9 Q. That's not over 40, it was 80 total?

10 A. Total. Yeah, I'm sorry.

11 Q. All right. What about for -- from January 1st,
12 2008 until December 31st, 2008?

13 A. Oh, I'm sorry. The first time period was what?

14 Q. October --

15 A. The -- the one that I just answered, the 80.

16 Q. The first -- the first time period was from
17 February 4th, 2007, and I guess I should have said 2008.
18 Let me look. No, I got it right. From February 4th,
19 2007 when you left El Cajon --

20 A. Right.

21 Q. -- till the end of 2007. I'm asking about
22 2007 --

23 A. Oh, okay. Yeah, not as many.

24 Q. -- at 5651.

25 A. Yeah. Then I probably averaged about 60 hours a

1 week.

2 Q. Okay. Total, correct?

3 A. Total, 20 over 40.

4 Q. Okay. Now, what about in 2008? In 2008 how many
5 hours were you working on average per week?

6 MS. SCOTT: Objection; form.

7 THE WITNESS: Probably -- 2008. Probably
8 about 60 to 65.

9 BY MS. FALCONE:

10 Q. Okay. What about 2009? During that year, how
11 much -- well, how many hours did you work per week on
12 average?

13 A. That was the --

14 MS. SCOTT: Objection; form.

15 THE WITNESS: -- well, I probably worked 80
16 hours a week then average.

17 BY MS. FALCONE:

18 Q. Okay. And what about during the period
19 January 1st, 2010 until March 22nd, 2010, how many hours
20 on average were you working per week during that time?

21 MS. SCOTT: Objection; form.

22 THE WITNESS: Still in the 80 range.

23 BY MS. FALCONE:

24 Q. Okay. Did you ever take a lunch?

25 MS. SCOTT: Objection; form.

1 THE WITNESS: Never left the store. I
2 usually would go -- I would -- I would eat something
3 every day, but usually I'd go to the computer and do
4 something like pay bills or do credits or something like
5 that while I was eating.

6 BY MS. FALCONE:

7 Q. Okay.

8 A. Yeah, that was...

9 MS. FALCONE: What exhibit are we on? 9?
10 Please mark as Exhibit 9 a self-appraisal dated
11 September -- no -- February 20th, 2009.

12 (The document referred to was marked by
13 the CSR as Deposition Exhibit 9 for
14 identification and attached to the
15 deposition transcript hereto.)

16 BY MS. FALCONE:

17 Q. Mr. Dayton take a look at Exhibit 9 and let me
18 know when you're done.

19 (Document reviewed by witness.)

20 THE WITNESS: Okay.

21 BY MS. FALCONE:

22 Q. Have you ever seen Exhibit 9 before?

23 A. Yes.

24 Q. Is this your handwriting on Exhibit 9?

25 A. Yes.

1 store manager at Rite Aid completing those nonmanagerial
2 tasks?

3 MS. FALCONE: Objection -- objection; vague,
4 overbroad.

5 MS. SCOTT: Counsel, we agreed to just limit
6 our objections to form. I would appreciate it --

7 MS. FALCONE: Those are form objections.

8 MS. SCOTT: Yes, but I would appreciate it
9 if you would just object to form as I did throughout the
10 entire deposition.

11 MS. FALCONE: We didn't stipulate that the
12 only thing that could be said is object as form, and you
13 did not restrict your comments to only saying object as
14 to form on several occasions. You made additional
15 comments. I don't think there's anything wrong with me
16 stating the grounds.

17 MS. SCOTT: We agreed at the very beginning
18 of this deposition that we would object only to form.

19 MS. FALCONE: Those are form objections.

20 MS. SCOTT: I agree that they're form
21 objections, but I would appreciate it if you would not
22 interrupt the deposition and would just object to form.

23 MS. FALCONE: I am making form objections.
24 I disagree as to what our agreement was.

25 ///

1 MS. SCOTT: Nikki, do you mind -- do you
2 mind reading over the question that was just posed?

3 (The record was read as follows:

4 Q What percentage of your time did
5 you spend as a store manager at Rite Aid
6 completing those nonmanagerial tasks?)

7 MS. FALCONE: Same objections.

8 THE WITNESS: Can I answer?

9 BY MS. SCOTT:

10 Q. Yes, go ahead.

11 A. It was pretty much entwined into my whole day.

12 Like it's hard to kind of separate out the -- because
13 you were constantly going to the check stand to ring
14 somebody up, going to ice cream and do this, you're
15 doing something in the back, stocking shelves, doing
16 this and that.

17 If I had to pick a percentage, I would say maybe
18 80, 85 percent.

19 Q. And as a store manager at Rite Aid, why did you
20 complete those nonmanagerial tasks rather than having
21 the hourly employees complete those tasks?

22 MS. FALCONE: Objection; overbroad, vague.

23 THE WITNESS: Go ahead?

24 BY MS. SCOTT:

25 Q. You can go ahead.

1 A. There were no hourly employees to do the tasks if
2 I was -- most of the time it was me and maybe two other
3 employees, so we would be forced into checking and
4 scooping ice cream. And if we had more than, you know,
5 a few people in line, obviously myself and my assistant
6 manager would have to jump in and do that, the check
7 stand duties.

8 As far as stocking shelves and things, that's --
9 always store managers have done that, have always worked
10 on load and always unloaded trucks and put up the stock
11 in the shelves.

12 We've -- most of the managers that I've worked
13 with have always straightened and done stocking type
14 duties. And some of them have done cleaning type duties
15 and things like that.

16 Q. Now, you said that store managers have always
17 worked fine unloading the truck, doing stocking duties.
18 Were you referring only to store managers at Rite Aid or
19 were you referring --

20 A. I only know Rite Aid. I only worked at Rite Aid.

21 Q. You testified earlier -- or there was testimony
22 earlier regarding the fact that your district
23 managers -- at least one of your district managers
24 complained that you should delegate tasks to store
25 hourly employees rather than completing them yourself.

1 Was this possible?

2 A. If there was another --

3 MS. FALCONE: Objection; vague, calls for
4 speculation, overbroad.

5 BY MS. SCOTT:

6 Q. You can answer.

7 A. Sometimes it was possible if there was another
8 employee available, but most of the time it just fell on
9 me. I mean, there wasn't another person I could say,
10 hey, go do this because they're already checking or
11 they're already working at a check stand.

12 I mean, if there's three people in the store, you
13 know, we're -- we're all checking and scooping ice cream
14 and doing, you know, all the stock. There wasn't
15 another person I could delegate it to.

16 Q. Do you know if other store managers had the same
17 issue with not being able to delegate to store
18 employees -- to hourly employees because -- because
19 there were not enough hours in the budget?

20 MS. FALCONE: Objection; calls for
21 speculation.

22 THE WITNESS: I know of at least one other
23 store manager that had to work long hours and had to do
24 a lot of basic like checking and -- and that type stuff
25 for a fact. I mean, I've talked to him about it.

1 BY MS. SCOTT:

2 Q. And do you know if it was for the same reason,
3 the reason being that he didn't have enough employees?

4 A. It's the lack of people, yes.

5 MS. FALCONE: Objection; calls for
6 speculation.

7 BY MS. SCOTT:

8 Q. Did doing these nonmanagerial duties affect how
9 you were able to run your store as a store manager at
10 Rite Aid?

11 MS. FALCONE: Objection; vague.

12 THE WITNESS: Could you repeat it?

13 BY MS. SCOTT:

14 Q. Sure. Did doing these nonmanagerial tasks as a
15 supervise -- or as a store manager at Rite Aid affect
16 how you were able to run the store?

17 A. Yes.

18 MS. FALCONE: Objection; vague.

19 BY MS. SCOTT:

20 Q. Did doing these nonmanagerial duties affect how
21 you were able to supervise your staff?

22 MS. FALCONE: Objection --

23 THE WITNESS: Yes.

24 MS. FALCONE: -- vague.

25 ///

1 BY MS. SCOTT:

2 Q. Were you able to fully supervise your employees
3 while you were doing nonmanagerial tasks?

4 MS. FALCONE: Objection; vague --

5 THE WITNESS: No.

6 MS. FALCONE: -- leading.

7 BY MS. SCOTT:

8 Q. Did the assistant store managers also perform
9 nonmanagerial tasks?

10 A. Yes.

11 MS. FALCONE: Objection; calls for
12 speculation, leading.

13 BY MS. SCOTT:

14 Q. Is that a "yes"?

15 A. Yes.

16 Q. You talked earlier during your testimony about
17 how assistant store managers were paid hourly rather
18 than salary?

19 A. Yes.

20 Q. When did that happen or was it from the very
21 beginning when you started with Rite Aid where assistant
22 store managers were paid hourly?

23 MS. FALCONE: Objection; calls for
24 speculation, overbroad.

25 THE WITNESS: There was a point when they

1 changed from having assistant salary to hourly. The
2 exact year, I don't remember, but there was a lawsuit
3 involved with that too where Rite Aid was sued and they
4 determined that they had to pay the assistant managers
5 on an hourly basis and not on a salary basis.

6 BY MS. SCOTT:

7 Q. Do you know, at least in the stores that you were
8 working in at Rite Aid, if this occurred while you were
9 a store manager at Rite Aid or did it occur when you
10 were an assistant store manager at Rite Aid?

11 A. That occurred when I was an assistant store
12 manager.

13 Q. Okay. And when the assistant store managers were
14 paid on an hourly basis, were they paid overtime for
15 hours that they worked over the 45-hour limit?

16 A. Yes, they were paid overtime everything over 40.
17 They were guaranteed five overtime hours and then
18 whatever, you know, they could get over that.

19 Q. So they would always be paid overtime no matter
20 how many hours they worked over that 45; is that right?

21 MS. FALCONE: Objection; misstates the
22 witness's testimony, vague.

23 THE WITNESS: The 45 hours a week included
24 five hours overtime and it was I think calculated into
25 their pay. I mean, so they were all expected to work 45

1 hours a week. They worked nine-hour days.

2 BY MS. SCOTT:

3 Q. Did they ever work more than 45 hours a week?

4 MS. FALCONE: Objection; calls for
5 speculation, overbroad.

6 THE WITNESS: Yes.

7 BY MS. SCOTT:

8 Q. And would they be paid for that overtime that
9 they worked over 45?

10 A. Yes.

11 Q. Okay. Were you ever paid overtime as a store
12 manager at any Rite Aid --

13 A. No.

14 Q. -- for the hours that you worked over 45 hours?

15 A. No.

16 Q. Who made the final decision regarding hiring
17 staff?

18 MS. FALCONE: Objection; vague, vague as to
19 time, calls for speculation.

20 THE WITNESS: The final decision would be to
21 the district manager because I would have to approve it
22 through him.

23 BY MS. SCOTT:

24 Q. And who made the final decision regarding firing
25 staff?

1 MS. FALCONE: Objection; vague, vague as to
2 time, overbroad.

3 THE WITNESS: That would be a human resource
4 and/or the DM also. I would have to have approval from
5 one or both of them.

6 BY MS. SCOTT:

7 Q. Who made the final decision regarding setting
8 payroll?

9 MS. FALCONE: Objection; vague, vague as to
10 time, overbroad.

11 THE WITNESS: Final decision on?

12 BY MS. SCOTT:

13 Q. Payroll.

14 MS. FALCONE: Same objection.

15 THE WITNESS: I don't understand the
16 question.

17 BY MS. SCOTT:

18 Q. The number of or your budget.

19 A. Oh, budget. Okay. The district manager.

20 Q. And were you able to change the budget at all?

21 MS. FALCONE: Objection; vague, vague as to
22 time, overbroad.

23 THE WITNESS: Usually no. Occasionally,
24 yes. Very rare occasions he would let me add hours to
25 it, but was not like when he sent in the people to help

1 with the planogram, but it was very infrequent.

2 BY MS. SCOTT:

3 Q. And if you wanted to change the budget, would you
4 have to seek approval from the district manager?

5 A. Oh, definitely, yes.

6 Q. And who made the final decision regarding
7 ordering merchandise?

8 MS. FALCONE: Objection; vague, vague as to
9 time, overbroad.

10 THE WITNESS: For the most part, although
11 like I said before, he would go in and alter numbers
12 that we had punched in for our ad orders and he would
13 order bulk orders for beer and soda and things like
14 that. So I didn't have the final say on those items.
15 It was, you're going to get this.

16 BY MS. SCOTT:

17 Q. Would you say that creating the budget or the
18 budget in general affected the profitability of the
19 store?

20 A. Yes.

21 Q. Could you completely -- because you didn't set
22 payroll, could you completely control the profitability
23 of the store --

24 MS. FALCONE: Objection --

25 BY MS. SCOTT:

1 Q. -- as a store manager at Rite Aid?

2 MS. FALCONE: Objection; leading, vague.

3 THE WITNESS: I would say no just because I
4 didn't have the staff to be as profitable as I could be.
5 I saw customers walk out when we had long lines in the
6 check stands and only two people checking, you know, and
7 one in ice cream. I saw it.

8 BY MS. SCOTT:

9 Q. You testified earlier regarding the fact that
10 your stores were union stores and regarding union
11 contract that applied to the employees working in your
12 stores.

13 Did the fact that your stores were union stores
14 change the budget in any -- or affect the budget in any
15 way?

16 MS. FALCONE: Objection; calls for
17 speculation.

18 THE WITNESS: No, I don't have any
19 experience with a nonunion store, so I don't...

20 BY MS. SCOTT:

21 Q. Did the union itself have any role in setting the
22 budget or creating the budget?

23 MS. FALCONE: Objection; calls for
24 speculation, vague, vague as to time.

25 THE WITNESS: Only in --

DECLARATION UNDER PENALTY OF PERJURY

I, MARK DANIEL DAYTON, do hereby certify under penalty of perjury that I have read the foregoing transcript of my deposition taken August 10, 2011; that I have made such corrections as appear noted herein, in ink, initialed by me; that my testimony as contained herein, as corrected, is true and correct.

DATED this _____ day of _____, 2011,
at _____, California.

MARK DANIEL DAYTON

Exhibit Y

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

YATRAM INDERGIT, on behalf)
of himself and others)
similarly situated,)
)
Plaintiff,) CIVIL ACTION NO.
) 1:08-cv-09361-PGG-
VS.) HBP
)
RITE AID CORPORATION, RITE)
AID OF NEW YORK, INC., and)
FRANCIS OFFOR as Aider &)
Abettor,)
)
Defendants.)
_____)

DEPOSITION OF MARTHA DEL ANGEL
Los Angeles, California
Monday, October 10, 2011

Reported by: NIKKI ROY
CSR No. 3052

1 A. Yes.

2 Q. Do you agree that you show concern for employee
3 issues and work to resolve them in an equitable way?

4 A. Yes.

5 Q. Do you agree with Mr. Champion's statement at
6 No. 3 where it says "Commitment to Excellence" that you
7 set high standards for yourself and your store?

8 A. Yes.

9 Q. Do you agree that you take pride in your store
10 conditions and financial results?

11 A. Yes.

12 Q. Do you agree that you embrace company programs
13 and take responsibility to ensure that they are
14 followed?

15 A. Yes.

16 Q. Do you agree with Mr. Champion's statements at
17 No. 4 where it says "Planning Skills," that you
18 consistently take steps to make sure you have a plan for
19 future programs, changes or projects?

20 A. Yes.

21 Q. Do you agree that you are always prepared to
22 address upcoming events and communicate your plans to
23 your team?

24 A. Yes.

25 Q. Do you agree that a good example of you being

1 prepared in that way was your -- was handling the
2 remodel at store 5600?

3 A. Yes.

4 Q. And do you agree that you maintained store
5 standards and positive sales during that remodel
6 project?

7 A. Yes.

8 Q. When was the remodel at 5600, sometime in
9 2002-2003 time?

10 MS. SCOTT: Objection; form.

11 THE WITNESS: Yes. I don't recall the exact
12 time.

13 BY MS. BOLLIGER:

14 Q. What challenges did that remodel present?

15 A. Mainly to have our customers just be able to shop
16 without any problems while the remodel was going on.

17 Q. What did you do to overcome those challenges?

18 A. Tried to keep the store clean and organized as
19 much as possible.

20 Q. Okay. And moving to No. 5 where it says
21 "Organizing Skills," do you agree with Mr. Champion's
22 statements that you developed routines and systems to
23 meet new challenges?

24 A. Yes.

25 Q. Do you agree with Mr. Champion's statement at

1 No. 6 where it says "Controlling Skills," that you
2 control inventory and expenses to meet established
3 objectives?

4 A. Yes.

5 Q. Do you agree with Mr. Champion's statement at No.
6 7 regarding communication, that you keep your immediate
7 supervisor informed on store issues and personnel
8 concerns?

9 A. Yes.

10 Q. And do you agree that you are willing to listen
11 with an open mind and use good judgment based on
12 information you receive?

13 A. Yes.

14 Q. Do you agree with Mr. Champion's statement at No.
15 8, which is "Leadership," that you are a leader who is
16 willing to take charge of any situation?

17 A. Yes.

18 Q. Do you agree that you have been helpful as a team
19 leader for the district?

20 A. Yes.

21 Q. Do you agree that you have accepted
22 responsibilities beyond the scope of your immediate
23 area?

24 MS. SCOTT: Objection; form.

25 THE WITNESS: Yes.

1 Q. Okay. So you recall receiving one?

2 A. Yes.

3 Q. And do you recall what he said in his
4 self-appraisal regarding his own performance?

5 A. No.

6 Q. Okay. Let me see if this helps you remember.

7 We'll introduce Exhibit No. 25 only for purposes
8 of refreshing Ms. Del Angel's recollection.

9 (The document referred to was marked by
10 the CSR as Deposition Exhibit 25 for
11 identification and attached to the
12 deposition transcript hereto.)

13 (Document reviewed by witness.)

14 BY MS. BOLLIGER:

15 Q. Do you recall that Mr. Sandoval indicated he had
16 amazing and experienced trainers?

17 A. No, I did not know.

18 Q. Did Mr. Sandoval seem appreciative of the
19 mentoring that you provided to him?

20 A. I don't remember.

21 Q. Okay. Did you ever recommend Mr. Sandoval for
22 promotion?

23 A. No. He was too new.

24 Q. Okay. Did he end up leaving at some point?

25 A. He was terminated.

1 Q. Why was he terminated?

2 A. Loss prevention terminated him.

3 Q. Do you know what the circumstances were of
4 Mr. Sandoval's termination for loss prevention issues?

5 A. Yes.

6 Q. What were they?

7 A. He used a coupon for an item that was not for the
8 coupon, so he committed coupon fraud.

9 Q. Is that a serious offense in your view?

10 A. Yes.

11 Q. How did this issue come to loss prevention's
12 attention?

13 A. Mr. Garcia saw the receipt and notified me at
14 home. And in the morning when I came in the next day, I
15 had to call loss prevention and they had to do an
16 investigation.

17 Q. So you reported the information that you received
18 from Mr. Garcia to loss prevention regarding
19 Mr. Sandoval's coupon fraud?

20 A. Yes.

21 Q. And did -- did the loss prevention investigator
22 keep you informed regarding the investigation?

23 A. Yes.

24 Q. Did you agree with the decision to terminate

25 Mr. Sandoval?

1 A. It wasn't my decision.

2 Q. Did you agree that it was the right decision,
3 though?

4 A. Yes.

5 Q. Can you recall the names of the associates that
6 you hired?

7 MS. SCOTT: Objection; form.

8 THE WITNESS: Not all of them.

9 BY MS. BOLLIGER:

10 Q. Are they too many to recall the names of?

11 A. Yes. Too many and it's been very long.

12 Q. Do you recall hiring Eva Mary Dominguez?

13 A. Yes.

14 Q. Do you recall hiring William Powers?

15 A. Yes.

16 Q. Did you hire Ivan Nicholas Alexander?

17 A. Yes.

18 Q. Did you hire Marlene Ruby Armstrong?

19 A. Yes.

20 Q. And you hired Ms. Dominguez in January 2006,
21 correct?

22 A. Who?

23 Q. That's Eva Mary Dominguez. You hired her in
24 January 2006, correct?

25 A. If it says the date. I don't recall the date.

1 I'm recalling the names as you say them.

2 Q. Okay. What position did you hire Ms. Dominguez
3 into?

4 A. Clerk.

5 Q. Okay. What position did you hire Mr. Powers
6 into?

7 A. I believe he was a hand-dipper.

8 Q. And was that date of hire on or around June 2006?

9 A. I don't know.

10 Q. Does that sound right?

11 MS. SCOTT: Objection; form.

12 THE WITNESS: It could be.

13 BY MS. BOLLIGER:

14 Q. Did you have any input from anyone else into the
15 decision to hire Ms. Dominguez?

16 A. I believe it was the human resource.

17 Q. Okay. What input did human resources provide?

18 A. We did a hiring session for -- to open the new
19 store.

20 Q. Okay.

21 A. In January we started doing applications and
22 interviews, so all my signatures are probably on those
23 packets. And I had the human resource and I believe the
24 train -- the trainer helping with the process.

25 Q. So walk me through how the process worked for

1 this hiring session as opposed to the normal procedure
2 for hiring an associate into the store.

3 A. Since it's a brand-new store, they put an ad in
4 the paper to apply at a certain time and date. And so
5 when they came in, all the applicants, they just waited
6 and they would see either the human resource manager,
7 the trainer -- the training -- the training manager or
8 myself.

9 Q. For an interview?

10 A. Yes.

11 Q. Did you have an assistant manager hired yet at
12 this point for this store?

13 A. They were going to transfer one from another
14 store.

15 Q. Okay. But the person had not started working
16 yet?

17 A. No.

18 Q. And this was for store 6468, correct?

19 A. Yes.

20 Q. So what happened next after the person was
21 interviewed by either HR, a trainer or yourself?

22 A. We gave them some paperwork to fill out, filled
23 some forms, call some of them back, went through the
24 process of hiring.

25 Q. How did you choose who to have come in for an

1 interview?

2 A. Depending on their interview and their
3 application.

4 Q. Did you review all the applications that came in?

5 A. Not all of them myself. Like I said, the HR and
6 trainer were there and they did too.

7 Q. Okay. Did you have the opportunity to meet each
8 associate who was being considered to be hired before
9 they actually were hired to work in your store?

10 MS. SCOTT: Objection; form.

11 THE WITNESS: I don't remember.

12 BY MS. BOLLIGER:

13 Q. Okay. And so this hiring session process
14 occurred when you started at store 6468, correct?

15 A. Yes.

16 Q. And that was on or around January 2006?

17 A. Yes, about the end of January.

18 Q. Okay. Did you make the decision to hire
19 Ms. Dominguez?

20 A. I don't remember.

21 Q. Okay. Did you make the decision to hire
22 Mr. Powers?

23 A. Yes.

24 Q. Did anyone have input into the decision to hire
25 Mr. Powers?

1 MS. SCOTT: Objection; form.

2 THE WITNESS: Not that I recall.

3 BY MS. BOLLIGER:

4 Q. Do you recall hiring Ivan Nicholas Alexander?

5 A. Yes.

6 Q. And that was also for store 6468, correct?

7 A. Yes.

8 Q. And do you recall that was about April 2007?

9 A. It could be.

10 Q. Did anyone else have input into the decision to
11 hire Mr. Alexander?

12 MS. SCOTT: Objection; form.

13 THE WITNESS: He was recommended by Laura
14 Arias.

15 BY MS. BOLLIGER:

16 Q. Laura Arias was?

17 A. A key.

18 Q. Did you interview Mr. Alexander after Laura Arias
19 recommended him?

20 A. Yes.

21 Q. Have you ever hired an associate without
22 interviewing them?

23 A. Not that I recall.

24 Q. Okay. And what position did you hire
25 Mr. Alexander to fill?

1 A. Cashier.

2 Q. Did you hire Marlene Ruby Armstrong?

3 A. Yes.

4 Q. That was also to come work in store 6468,
5 correct?

6 A. Yes.

7 Q. Was that in or around August 2007?

8 A. It could be.

9 Q. Did anyone have input into your decision to hire
10 Ms. Armstrong?

11 A. No.

12 Q. What position did you hire Ms. Armstrong into?

13 A. I believe it was hand-dipper.

14 Q. What's a hand-dipper?

15 A. Hand-dipper is a person that is not 18 years
16 old -- old and that they can serve ice cream, clean ice
17 cream, fill and do that but cannot be at the register.

18 Q. Okay. Did you hire Nichole Danielle Brandon?

19 A. I don't remember that.

20 MS. BOLLIGER: We'll look at -- will be
21 Exhibit 26.

22 (The document referred to was marked by
23 the CSR as Deposition Exhibit 26 for
24 identification and attached to the
25 deposition transcript hereto.)

1 MS. BOLLIGER: And this is only for purposes
2 of refreshing Ms. Del Angel's recollection.

3 (Document reviewed by witness.)

4 BY MS. BOLLIGER:

5 Q. Ms. Del Angel, having reviewed Exhibit 26, does
6 that refresh your recollection that you hired Nichole
7 Brandon in or around July 2008?

8 A. Name seems familiar. I don't recall her.

9 Q. Okay. Do you recall what position -- do you
10 recall whether Ms. Brandon worked with you in store 6468
11 at some time?

12 A. She probably did.

13 Q. Okay.

14 A. But I don't remember.

15 Q. Okay. Did you hire Briana Marie Roman?

16 A. Yes.

17 Q. And you hired Ms. Roman into 6468 as well?

18 A. Yes.

19 Q. And was that in or around August 2009?

20 A. Sounds about right.

21 Q. Did you get input from your district manager into
22 that hiring decision?

23 A. No.

24 Q. Have you ever sought input from your district
25 manager before hiring an associate to work in one of

1 your stores?

2 A. Yes.

3 Q. What were the circumstances of getting input from
4 the district manager?

5 MS. SCOTT: Objection; form.

6 THE WITNESS: I -- I needed -- I believe I
7 needed to put another key in my store and they have to
8 approve that with loss prevention or human resources.

9 BY MS. BOLLIGER:

10 Q. So if I understand you correctly, the district
11 manager had to approve your ability to hire some person
12 to fill that additional key role, correct?

13 A. Yes.

14 Q. Did you get input on who to hire to fill that
15 additional key role from the district manager?

16 MS. SCOTT: Objection; form.

17 THE WITNESS: I don't recall.

18 BY MS. BOLLIGER:

19 Q. What sort of information did you provide to the
20 district manager to persuade him to allow you to hire
21 another key?

22 MS. SCOTT: Objection; form.

23 THE WITNESS: I don't think I was able to
24 hire anybody. I believe they -- I think they
25 transferred someone.

1 BY MS. BOLLIGER:

2 Q. Did you have the opportunity to obtain
3 information about the individual who was being
4 transferred before he or she came to your store?

5 A. He would let me know who it was, and that's about
6 it.

7 Q. Other than seeking possible approval for another
8 key, were there any other times you can recall getting
9 input from your district manager about a hiring
10 decision?

11 A. Yes. My applicants were not of age, a lot of
12 them or --

13 Q. They were under 18?

14 A. Yes. I really didn't have very good applicants,
15 so then they set up something online to get applicants
16 through online.

17 Q. Okay. From that point forward did you then
18 decide who to interview and continue the normal process
19 with respect to hiring?

20 A. Yes.

21 Q. And when was the time that you tried to get
22 approval to hire another key?

23 A. I don't remember the dates.

24 Q. Was that -- was it Mr. Champion that you were
25 speaking with about that?

1 Q. Who was the district manager?

2 A. I don't remember.

3 Q. And then you went to store No. 5608, correct?

4 A. No. I went to 5585 for a month.

5 Q. Okay. Okay. And then to 5608?

6 A. Correct.

7 Q. Okay. So during that transition in 2003, you got
8 a raise, correct?

9 A. Somewhere in there I did.

10 Q. Somewhere in there. Okay. Have you ever made a
11 complaint to anyone in Rite Aid about not receiving
12 overtime pay?

13 A. Yes.

14 Q. Who did you complain to about that?

15 A. Paul Champion.

16 Q. When did you complain to Paul Champion about not
17 receiving overtime pay?

18 A. I don't remember the dates.

19 Q. Was it in the last few years? Can you
20 remember --

21 A. Yes.

22 Q. -- approximate time?

23 A. It's been a few years. The -- the last few
24 years.

25 Q. How many times did you talk with Paul Champion

1 about not receiving overtime pay?

2 A. I don't know exactly how many times.

3 Q. Was it more than once?

4 A. Yes.

5 Q. Was it more than twice?

6 A. Yes.

7 Q. Was it more than five times?

8 A. I don't think so.

9 Q. Okay. And what did you tell Mr. Champion when
10 you talked with him about not receiving overtime pay?

11 A. I just would tell him, you know, that I had been
12 working 12 hours, how about some overtime for me.

13 Q. What did Mr. Champion say?

14 A. He laughed.

15 Q. Did he say anything else?

16 A. No.

17 Q. Setting aside the times when you were on leave of
18 absence in 2010, how many hours did you typically work
19 in a week?

20 MS. SCOTT: Objection; form.

21 THE WITNESS: I would say between 45 to 60.

22 BY MS. BOLLIGER:

23 Q. What factors influenced the number of hours that
24 you worked in your observation?

25 A. The payroll of dollars.

1 Q. The -- I'm sorry?

2 A. Payroll labor budget.

3 Q. Okay. Did the number of managers in the store
4 impact the number of hours you worked?

5 A. No. I didn't understand the question I guess.

6 Q. Well, if you had two managers -- if you had three
7 managers work during a day, did you typically work a
8 shorter day?

9 A. No.

10 MS. SCOTT: Objection; form.

11 BY MS. BOLLIGER:

12 Q. Why did you want to have another key associate?

13 A. Because Mr. Garcia was asking for a transfer.

14 Q. Okay. So it didn't seem to impact the number of
15 hours you worked at all, whether you had only you as a
16 manager or an assistant manager and two keys?

17 MS. SCOTT: Objection; form.

18 THE WITNESS: I really don't understand your
19 question.

20 BY MS. BOLLIGER:

21 Q. Okay. So I think you testified that your hours
22 in 2010 ranged from 45 hours to 60, correct?

23 A. Correct.

24 Q. What sorts of factors caused it to be closer to
25 45 versus closer to the 60?

1 A. Yes.

2 Q. What percentage of your day would you say as a
3 store manager at Rite Aid that you spent doing
4 nonmanagerial tasks?

5 MS. BOLLIGER: Objection; calls for
6 speculation and vague and ambiguous.

7 BY MS. SCOTT:

8 Q. You can answer.

9 A. Depends on what days. And if one day I would
10 say, you know, I have to get my reports done and my
11 paperwork, so a lot of times I would just be the second
12 checker, give change because I'm close by and I can come
13 back and forth so I can get my reports done or schedule
14 done or my ordering done.

15 Other days I would just do the minimum that I had
16 to do, orders in, go to the bank, get change, write a
17 work board and then just start working on either the
18 planograms because they only give you seven days to --
19 to complete them, or load. On load day you don't do
20 anything else but the load.

21 Q. What would you say the minimum amount of time
22 would be that you would spend doing on nonmanagerial
23 tasks as a store manager at Rite Aid?

24 MS. BOLLIGER: Objection; calls for a legal
25 conclusion, vague and ambiguous.

1 THE WITNESS: Minimum?

2 BY MS. SCOTT:

3 Q. The minimum, yes.

4 A. I would say two to three hours.

5 Q. Out of how long of a day?

6 A. Ten-hour day.

7 Q. And what would be the maximum number of hours
8 that you would work as a store manager doing
9 nonmanagerial tasks?

10 MS. BOLLIGER: Same objections.

11 THE WITNESS: Non?

12 BY MS. SCOTT:

13 Q. Let me rephrase that.

14 A. Okay.

15 Q. Same question, just to the maximum number of
16 hours. So how many hours maximum would you do
17 nonmanagerial tasks as a store manager at Rite Aid?

18 MS. BOLLIGER: Same objections.

19 THE WITNESS: About eight to ten hours.

20 BY MS. SCOTT:

21 Q. And would that also be out of a ten-hour day?

22 A. Yes.

23 Q. Or longer?

24 A. Or longer.

25 Q. You said it would depend on a day-by-day basis.

1 Would you be able to give me the percentage or an
2 average percentage of the amount of time that you did
3 nonmanagerial tasks on a weekly basis?

4 MS. BOLLIGER: Same objections.

5 THE WITNESS: No, I wouldn't.

6 BY MS. SCOTT:

7 Q. No? Would you be able to on a monthly basis?

8 A. No. I'm more of a daily person type of thing.

9 Q. If you'll look at Exhibit 31 which was the store
10 manager Rite Aid job description. Do you see any of
11 those nonmanagerial tasks that you've just listed
12 earlier list on there?

13 A. It says "planograms" right here.

14 Q. Do you see any of the other nonmanagerial tasks
15 listed?

16 MS. BOLLIGER: Same objections.

17 THE WITNESS: No.

18 BY MS. SCOTT:

19 Q. Would you consider these nonmanagerial tasks,
20 tasks that you had to complete as the store manager at
21 Rite Aid?

22 MS. BOLLIGER: Objection; calls for
23 speculation.

24 THE WITNESS: Yes.

25 ///

1 BY MS. SCOTT:

2 Q. Why did you have to complete nonmanagerial tasks
3 as a store manager at Rite Aid?

4 MS. BOLLIGER: Objection; calls for
5 speculation and calls for a legal conclusion.

6 THE WITNESS: Because there's a standard
7 that we have to maintain our stores, and I always tried
8 to do the best and make sure that my store looks good
9 and I really need my job.

10 BY MS. SCOTT:

11 Q. And did the labor budget affect how many
12 nonmanagerial -- strike that.

13 Did the labor budget affect how many
14 nonmanagerial tasks that you had to complete?

15 MS. BOLLIGER: Same objections.

16 THE WITNESS: Yes.

17 BY MS. SCOTT:

18 Q. In what way?

19 A. Like it could be a holiday week and they cut a
20 lot of hours because all the full-time employees have an
21 extra day off, so they figure, okay, they're not going
22 to pay that. So now they cut it. But you still have
23 the same amount of time opening the store because we
24 don't close on the holidays plus we have the same amount
25 of work.

8 A lot of times even though it looked like you had
9 a good budget for the week or -- or -- what I mean by a
0 good budget is, we're going to have so many hours and at
1 least there's coverage that I wouldn't have to spend at
2 the -- as cashiers or my assistant manager doesn't have
3 to be a cashier or my key associates don't have to be a
4 cashier. They can do the tasks.

5 Then we would get a message that we need to cut
6 120 hours from that budget.

17 Q. And what would happen when you've had to cut 120
18 hours from the budget?

9 A. We would have to cut them.

Q. And would that mean that you would have to work longer hours?

2 A. I would have to work longer hours or I would have
3 to cut an employee and I would pick up the -- the
4 workload on it. For instance, I wouldn't -- I would
5 cover the -- the lunch for the cashier and cover their

1 breaks or I would have to do the -- the pack duties
2 because you would ask them, you know, would you like to
3 take an extra day off because I don't have enough hours.

4 Because you have to ask them, they're union,
5 they're full-time. So if they did, that was fine, you
6 made your budget, but you have to still do the -- the
7 things that they are supposed to do on a daily basis.

8 Q. So if your budget was cut, your labor budget was
9 cut, would that mean that you would complete more
10 nonmanagerial tasks?

11 A. Yes.

12 Q. And you mentioned a "pack" earlier. What is a
13 "pack"?

14 A. A pack is a person responsible for all the
15 pricing, and they're -- they have to do all the blue
16 dots. They have to put the new advertising flags. They
17 have to put up the rebates and the Rite buys and all the
18 pricing in the store, signs and all that, and audits.
19 We have to do six audits a week.

20 Q. And did you ever open the store with a pack while
21 you were at Rite Aid -- while you were a store manager
22 at Rite Aid?

23 A. Yes.

24 Q. And what did that entail?

25 A. She would be on the floor and I would cover the

1 front of the store.

2 Q. Were you able to supervise this pack while she
3 was doing her duties as a pack and you were the only
4 other person in the store?

5 A. No. Depending if she was up front doing
6 something, but most of the time she had to do the
7 receiving in the back.

8 Q. Would you be working the cash register while she
9 was doing her duties as a pack?

10 A. Yes.

11 Q. Would you be doing other nonmanagerial tasks
12 while she was doing her duties as a pack?

13 MS. BOLLIGER: Objection; calls for a legal
14 conclusion.

15 THE WITNESS: I -- I usually try to
16 incorporate if I was going to be at the checkstand, I
17 would do some of my reports up -- that I needed to do up
18 front, do my report list, do some straightening or work
19 on some seasonal areas there.

20 BY MS. SCOTT:

21 Q. Did doing these nonmanagerial duties as a store
22 manager affect how you were -- how you were able to run
23 the store?

24 MS. BOLLIGER: Calls for a legal conclusion.

25 THE WITNESS: At times.

1 BY MS. SCOTT:

2 Q. In what ways?

3 A. At times I -- you know, I could see my store
4 not -- not being the way it usually was, you know,
5 clean, organized and in stock.

6 Q. And was that because you didn't have enough labor
7 hours to have employees do those tasks that you just
8 mentioned?

9 A. Yes.

10 Q. And did doing nonmanagerial tasks affect how you
11 were able to supervise your employees?

12 MS. BOLLIGER: Objection; vague and
13 ambiguous, calls for a legal conclusion.

14 THE WITNESS: Yes.

15 BY MS. SCOTT:

16 Q. In what way, can you give me an example?

17 A. Like I said, everything had deadlines and you had
18 to order certain things that -- and it stops. You can't
19 order after a certain time or you can't do certain
20 things. The -- the computer stops at certain times.

21 So if you were trying to order, for instance, in
22 the store or do the -- the blue dots and you had to
23 cover the checkstand or customer service or anything
24 like that, it would -- you know, you wouldn't finish.
25 You did the job, but it was not complete. It was

1 halfway.

2 Q. You did your nonmanagerial task and your non --
3 strike that.

4 You did the nonmanagerial and managerial tasks
5 that they didn't always get completed, is that what
6 you're saying?

7 A. Yes.

8 Q. Were you able to, for instance, supervise a
9 cashier if you were at the back of your store cleaning
10 up a spill?

11 A. No.

12 Q. Would you be able to supervise and see someone at
13 the back of your store who was doing stock -- you know,
14 stocking shelves if you were at the front of the store
15 as a cashier?

16 MS. BOLLIGER: Object as to form.

17 THE WITNESS: No.

18 BY MS. SCOTT:

19 Q. Did Rite Aid expect you to supervise employees
20 even though you were having to do these nonmanagerial
21 tasks?

22 MS. BOLLIGER: Object as to form and calls
23 for speculation.

24 THE WITNESS: Yes.

25 ///

1 BY MS. BOLLIGER:

2 Q. Who made the final decision regarding setting the
3 payroll?

4 MS. BOLLIGER: Objection; calls for
5 speculation.

6 THE WITNESS: The final call would be the
7 district manager.

8 BY MS. BOLLIGER:

9 Q. And who made the final decision regarding setting
10 the budget?

11 MS. BOLLIGER: Objection --

12 THE WITNESS: Corporate.

13 MS. BOLLIGER: -- calls for speculation.

14 BY MS. BOLLIGER:

15 Q. Were you able to change the budget as the store
16 manager at Rite Aid?

17 MS. BOLLIGER: Objection; calls for
18 speculation, vague.

19 THE WITNESS: No, unless you're going to
20 lower it.

21 BY MS. BOLLIGER:

22 Q. So you could lower the budget as a store manager
23 at Rite Aid but you couldn't get additional hours for
24 your budget?

25 A. Yes.

1 Q. Did Rite Aid's budget policy where you didn't
2 have enough hours leave your store understaffed?

3 MS. BOLLIGER: Object as to form.

4 THE WITNESS: Yes.

5 BY MS. BOLLIGER:

6 Q. And did Rite Aid's budget policy cause you as a
7 store manager to have to complete nonmanagerial tasks?

8 MS. BOLLIGER: Objection as to form.

9 THE WITNESS: Yes.

10 BY MS. BOLLIGER:

11 Q. Can you delegate tasks to employees if you don't
12 have enough employees to -- or hours to delegate those
13 tasks to?

14 MS. BOLLIGER: Object as to form.

15 THE WITNESS: No.

16 BY MS. BOLLIGER:

17 Q. Did you often not the have enough employees to
18 delegate tasks to?

19 MS. BOLLIGER: Same objection.

20 THE WITNESS: Yes.

21 BY MS. BOLLIGER:

22 Q. What would happen to you as the store manager at
23 Rite Aid if you didn't get all the tasks completed that
24 your district manager expected you to complete?

25 MS. BOLLIGER: Object as to form and calls

1 for speculation.

2 THE WITNESS: You would start getting verbal
3 warnings and written warnings and could go from there to
4 demotion, termination.

5 BY MS. BOLLIGER:

6 Q. So if you didn't have enough employees to
7 complete the tasks, would it have been an option for you
8 to not complete the nonmanagerial tasks?

9 MS. BOLLIGER: Object as to form.

10 THE WITNESS: No.

11 BY MS. BOLLIGER:

12 Q. Would you say the budget affects the
13 profitability of your store?

14 MS. BOLLIGER: Object as to form.

15 THE WITNESS: I believe so. If there is
16 enough cashiers and people to help the customers when
17 they come in and they want to know where this is, that,
18 and they can't find it, you know, if there's enough
19 employees to show you where the things are, then you are
20 going to buy something else or what you were looking
21 for.

22 BY MS. BOLLIGER:

23 Q. And you testified earlier about lists that your
24 district manager would send out which would list
25 different tasks that you had to complete.

1 STATE OF CALIFORNIA)
) ss.

2 COUNTY OF LOS ANGELES)
3

4 I, NIKKI ROY, Certified Shorthand Reporter,
5 certificate number 3052, for the State of California,
6 hereby certify:

7 The foregoing proceedings were taken before me at
8 the time and place therein set forth, at which time the
9 deponent was placed under oath by me;

10 The testimony of the deponent and all objections
11 at the time of the examination were recorded
12 stenographically by me and were thereafter transcribed;

13 The foregoing transcript is a true and correct
14 transcript of my shorthand notes so taken;

15 I further certify that I am neither counsel for
16 nor related to any party to said action nor in any way
17 interested in the outcome thereof.

18 In witness whereof I have hereunto subscribed my
19 name 14th day of October, 2011.
20

21 _____
22
23
24
25

Exhibit Z

**Yatram Indergit, et al. v. Rite Aid Corporation, et al.
Vicky Dixon**

**1:2008cv09361
July 25, 2011**

Page 1

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

YATRAM INDERGIT, on Behalf
of Himself and Others
Similarly Situated
Plaintiff

vs.

Civil Action No.

RITE AID CORPORATION, RITE
AID OF NEW YORK, INC., and
FRANCIS OFFOR, as Aider &
Abettor

1:2008cv09361

Defendants

_____ /

The deposition of VICKY DIXON was held
on Monday, July 25, 2011, commencing at 9:50 a.m.,
at the offices of Gore Brothers Reporting &
Videoconferencing, 20 South Charles Street, Suite
901, Baltimore, Maryland 21201, before Susan M.
Wootton, Notary Public.

REPORTED BY: Susan Wootton, RPR, CLR

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Vicky Dixon**

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1 for example, I would have made an advanced schedule.

2 Q So Yvonne wouldn't have made the schedule?

3 A Not to my recollections, no.

4 Q Did you ever have any turnover in the
5 Lawrenceville store?

6 MS. SCOTT: Objection to form.

7 THE WITNESS: Explain.

8 MS. PUCKETT: Do you know what turnover
9 means?

10 THE WITNESS: Explain it, which way are you
11 asking for it? I need a more brief detail.

12 MS. PUCKETT: What do you think of when I
13 say turnover? Like, what does that mean to you?

14 THE WITNESS: It just -- you need to give
15 me an explanation, because I don't understand what
16 you're asking for --

17 Q You don't understand the word turnover?

18 A -- Becasue turnover could mean anything in
19 a number of situations.

20 Q Okay. Well, I'm sort of asking you what
21 you think of when I say turnover, like what different
22 kinds of things could it mean?

23 A Employee turnover. Basically that is it,
24 to me.

25 Q Okay.

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Vicky Dixon**

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1 A I mean, it depends on what situation you're
2 implying on.

3 Q So was there ever any employee turnover at
4 Lawrenceville?

5 A Not while I was there. I don't --

6 Q What about Emporia?

7 A No, not while I was there.

8 Q So no hiring occurred while you were in
9 either of those stores?

10 A Okay, if you're asking if hiring occurred,
11 yes.

12 Q Okay. So, at which store, Lawrenceville or
13 Emporia or both?

14 A Both.

15 Q Okay. So what hiring occurred at
16 Lawrenceville?

17 A Okay, meaning in what detail?

18 Q Well, you just said hiring occurred so --

19 A Well, they needed an extra -- we needed an
20 extra part-timer, but I didn't have complete control
21 over hiring.

22 I did the interview process, and HR and the
23 district manager had the overall say.

24 Then there had to be information put
25 through the SYSM, as far as background checks,

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1 et cetera.

2 So speaking, Rite Aid had total control
3 over the hiring process.

4 Q But they had to go on your recommendation,
5 right?

6 A Not necessarily so.

7 Q Did you ever recommend an employee be hired
8 who wasn't?

9 A No, not that I can recall.

10 Q You were the only person who interviewed
11 them, right?

12 MS. SCOTT: Objection to form.

13 THE WITNESS: Yes. Yes, at that point I
14 did the interview. I took them through the process
15 because we had a booklet which was presented by
16 Rite Aid and by HR that we had to follow.

17 So the standard procedure was to take them
18 through that booklet, do the paperwork process and then
19 mail it to HR and to the DM, and then they would do the
20 final.

21 Q But to your knowledge, they always took
22 your recommendation to hire, right?

23 MS. SCOTT: Objection to form.

24 THE WITNESS: No, because if -- no, because
25 they had to pass some kind of standard test, and if

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1 hadn't been shown the basics, because I believe Charlie
2 was doing everything himself, basically, because
3 they -- he had a problem teaching them.

4 Q What was the problem?

5 A It was, I guess it was because of their
6 learning skills, you know. He didn't, I think Charlie
7 didn't have the patience.

8 Q Did you have the patience?

9 A Yes, I always had the patience.

10 Q But Nancy and Debra were already shift
11 supervisors, they weren't brand new, right?

12 A No, they weren't.

13 Q Okay.

14 A And I didn't promote them, yes.

15 Q So was there anyone who was a brand new
16 shift supervisor when you were the store manager?

17 MS. SCOTT: Objection to form.

18 THE WITNESS: I can't remember. I'm
19 wondering -- I don't know.

20 Sterling, I know he got promoted and I'm
21 trying to remember. I don't remember.

22 Q Okay.

23 A I do recall recommending him because he was
24 so diligent, and Charlie used to say that he could
25 become an assistant manager one day.

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1 Q Okay. So back to this document, at the
2 very bottom it says:

3 What are your comments, if any, regarding
4 this appraisal, and you said: I've been at this store a
5 long time. I've hired and dismissed those who have not
6 followed policies and procedures.

7 What did you mean by dismissed?

8 A They, they were suspended, per the HR rules
9 by Rite Aid's procedures, going through HR and
10 Debra Pence, yes.

11 Q So you meant suspended, not fired --

12 A Yes.

13 Q -- because you never fired anyone, right?

14 A No.

15 Q Did you ever --

16 A You couldn't fire anyone anyway because you
17 had to go through HR and the DM.

18 Q But you never went through that process to
19 go through HR and the DM to fire anyone, right?

20 A I never went through -- you have to, yes.

21 Q But you --

22 A No, I didn't fire anyone.

23 Q Okay.

24 A No, no.

25 Q And no one got fired, that's what you said

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1 earlier?

2 A I said I wasn't sure.

3 Q Okay. Does this help you remember?

4 A If anything, I was told to send them home.

5 MS. SCOTT: Counsel, I'm sorry, can you
6 point me to where it says fired?

7 THE WITNESS: Because I don't see it,
8 either.

9 MS. PUCKETT: I asked her. I asked her
10 when it was dismissed, or what she meant by dismissed.
11 That's what we're talking about.

12 So you don't know what you meant by
13 dismissed, whether it meant fired or dismissed?

14 THE WITNESS: I do, when I told you that we
15 had to send people, when you mentioned about sending
16 people home for not having the correct dress attire.

17 Q When you say dismissed, you weren't talking
18 necessarily about terminating?

19 A No, because I didn't have that power.

20 Q Well, you had the power to recommend
21 termination, though?

22 A No, I had the power to write them up and to
23 call and turn it into HR and the DM, and they made the
24 final decisions.

25 Q Right. Did you ever do that?

1 up in the store, it was like highly impossible to keep
2 them all up to date and at one time.

3 You had to cut back on something just to do
4 a planogram.

5 Q Okay. So that's the reason that you, you
6 crossed it out --

7 A Yes.

8 Q -- and wrote --

9 A Yes, for the planogram part.

10 Q -- and wrote the word, outside vendors?

11 A Yes.

12 Q And then on number 9, it says: Responsible
13 for hiring and training, and then it says, DM and HR
14 responsibility in your handwriting next to it.

15 Why did you write that there?

16 A Because that is their main task and their
17 responsibilities is for hiring.

18 We just do the interviewing.

19 Q So you're responsible for the interviewing,
20 and the DM and HR is responsible for the actual hiring?

21 A Yes.

22 Q But you, you're responsible for making
23 recommendations, right?

24 A Actually, the recommendation is done
25 through the system. Now, like I said, they have those

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1 tests to pass and everything before they --

2 Like you saw on the one that you gave me,
3 they have to be okayed, okayed to hire.

4 I don't think that I have that.

5 Q Yes, we discussed --

6 A Yes.

7 Q We discussed the fact that they need to
8 pass some screening checks, right?

9 A Yes, prescreening.

10 Q One of which is a thorough interview with
11 you, right?

12 A Yes.

13 Q So you're the only one at the store level
14 who is responsible for hiring, is that right?

15 A I'm responsible for doing the interview and
16 initiating the process, but the hiring has to come
17 finalized and recommended from the corporate sector,
18 which is Rite Aid, and the DM and the HR.

19 Q Right. But at the store level, you're the
20 one who initiates the hiring process, is that fair?

21 A Yes, that's fair.

22 Q And you said number 9 says: Responsible
23 for hiring and training. And then you wrote DM and HR
24 responsibility next to that.

25 Was that mainly referring to hiring because

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1 you had testified earlier that you were responsible for
2 training, right?

3 A Yes, but they do do some training with us
4 and so forth.

5 What was I going to say --

6 Q But you're also responsible for training,
7 right?

8 A Yes.

9 Q And those are the only two changes you made
10 to this job description?

11 A Yes.

12 MS. SCOTT: I believe, actually it looks
13 like she -- did you make changes on the last page?

14 THE WITNESS: Yes.

15 MS. PUCKETT: Oh, okay. I didn't see that.
16 Thank you, counsel.

17 MS. SCOTT: Sure.

18 MS. PUCKETT: The third page, you put,
19 under the physical requirements: Regularly required to
20 do the following activities: Stand dynamically for
21 long periods without a break, and you wrote, if need to
22 ensure breaks. What did you mean by that?

23 THE WITNESS: Because sometimes when you
24 work 12 hours, you're not able to take a break and it
25 depends on the circumstances.

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1 Is that what you're talking about when you
2 say, those duties?

3 A Yes, basically.

4 Q We'll go over that in a minute.

5 A Okay.

6 Q Would you also consider stocking shelves a
7 nonmanagerial task?

8 A No, not exactly.

9 Q Okay. What about physically unloading the
10 truck? Would you consider that a nonmanagerial task?

11 MS. PUCKETT: Objection to form.

12 THE WITNESS: Yes, I would, because if they
13 expect you to be in the office on the computer doing
14 the paperwork, and then you have to stop and do the
15 truck, and then if you fall behind, say that you've got
16 200 totes you've got to unload the truck, say you and
17 one other person is there.

18 Say that truck comes at 6:00 or 7 o'clock
19 in the morning, or if it comes like at 2 o'clock, and
20 maybe you've had a chance to do the office work, but,
21 if it comes at 2:00 or 3 o'clock, you don't have much
22 time to do anything else, like the price changes that
23 are supposed to be done, the recalls.

24 You're going to be stuck on that truck all
25 day and then some, so --

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1 Q So would you say that having to do these
2 nonmanagerial duties took away from the time that you
3 had to do your managerial duties?

4 MS. PUCKETT: Objection to form.

5 THE WITNESS: Yes.

6 MS. SCOTT: Would Rite Aid expect you as a
7 store manager to do your managerial duties, even though
8 you still had to complete the nonmanagerial tasks?

9 THE WITNESS: Yes.

10 Q Would Rite Aid expect you to supervise your
11 employees, even though you were still having to
12 complete these nonmanagerial tasks?

13 A Yes.

14 Q What percentage of your hours that you
15 would work weekly at Rite Aid would be dedicated to
16 nonmanagerial tasks?

17 A I would say 85 percent.

18 Q Do you consider these tasks to be part of
19 your regular duties as a store manager?

20 A Most of them. But some can be delegated to
21 other associates, if you have the hours to delegate
22 them to. But basically --

23 Q You were talking about if you had the
24 hours --

25 A Yes.

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1 Q -- to delegate the tasks to?

2 A Yes.

3 Q Who controlled how many hours you received
4 in your store budget?

5 A The district manager.

6 Q What if you didn't have enough cashier or
7 associate hours to complete the nonmanagerial tasks?
8 Would you have to do those tasks?

9 A Yes.

10 Q And what would happen if you didn't
11 complete those tasks -- or strike that.

12 What would happen if those tasks weren't
13 completed?

14 A You would get disciplinary action, or you
15 would get called or, called into the office.

16 Q Did doing these nonmanagerial tasks affect
17 how you were able to supervise your employees?

18 A Yes, it did. It did, and sometimes my
19 employees felt bad for me because then they saw that I
20 was getting sick, too, trying to keep the store up,
21 having compassion to do the work and so forth. It was
22 confusing to them as well.

23 Q Confusing in what way?

24 A They felt like I was putting out more, and
25 they couldn't understand why Debra Pence or Gloria were

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1 so in my case all the time and I'm putting out
2 100 percent.

3 Q Was it confusing to them that you were
4 doing the nonmanagerial work?

5 MS. PUCKETT: Objection.

6 THE WITNESS: I would say no, not too
7 confusing.

8 MS. SCOTT: Did the assistant store
9 managers also perform these nonmanagerial tasks?

10 THE WITNESS: Yes, they did, yes.

11 Q Now, if you'll look at Exhibit 9, which is
12 the Rite Aid store manager duties document?

13 A There are so many here.

14 Q I think it's the one that you actually
15 marked with your own handwriting in red?

16 A Do I still have that one? I don't think
17 that I do.

18 Q Thank you. Now, you didn't write any
19 nonmanagerial tasks on there, did you?

20 A No.

21 Q And do you see any listed?

22 A No. I really don't see it spelled out, no.

23 Q Okay. So is the reason that you didn't add
24 the nonmanagerial tasks in your red handwriting, is the
25 reason because you didn't consider them to be

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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

YATRAM INDERGIT, on Behalf
of Himself and Others
Similarly Situated
Plaintiff

vs.

Civil Action No.

RITE AID CORPORATION, RITE
AID OF NEW YORK, INC., and
FRANCIS OFFOR, as Aider &
Abettor

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Defendants

_____ /

The deposition of VICKY DIXON was held
on Monday, July 25, 2011, commencing at 9:50 a.m.,
at the offices of Gore Brothers Reporting &
Videoconferencing, 20 South Charles Street, Suite
901, Baltimore, Maryland 21201, before Susan M.
Wootton, Notary Public.

REPORTED BY: Susan Wootton, RPR, CLR

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1 sudden it was beginning to lay a burden on me.

2 I mean, especially when I would get sick,
3 it was just too much.

4 Q Would you say that DebraDebra didn't like
5 you?

6 A Yes. That's the way it seems after
7 everything that was happening, the way she would talk
8 at me, not to me.

9 She couldn't hear anything that I was
10 saying. It seemed like, when I was trying to explain
11 the write-up and everything, I had never been written
12 up for writing anybody up, and boom, you're a
13 liability.

14 Q Is it possible that she didn't like you
15 because of race, age or disability?

16 I'm not saying that you know that, but is
17 it a possibility?

18 A Because I was ill, is that what you're
19 saying?

20 Q Or because you're black or because you're
21 older than other employees?

22 A I don't know. I wouldn't want to say yes,
23 but I don't know.

24 Q Okay.

25 A I really would, years ago when with Revco,

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1 I would have said no, because she presented herself as
2 a kind person.

3 And I don't know if it was because I was
4 getting up in age, because I was told by one Rite Aid
5 security, loss prevention person, he said something, he
6 said, they can't mess with you. This is when I was
7 like 40-something.

8 They can't mess with you if you're 40
9 because you're protected. I didn't, I never understood
10 why he said that.

11 See, I kept getting hints, but I never
12 really thought they were hinting at me or any other
13 managers that were, you know, not going to be there
14 anymore.

15 (A discussion was held off the record.)

16 Q Who made the final decision regarding
17 hiring?

18 MS. PUCKETT: Objection to form.

19 THE WITNESS: The DM and HR.

20 MS. SCOTT: Who made the final decision
21 regarding firing staff?

22 THE WITNESS: The DM and HR.

23 Q Who made the final decision regarding
24 demoting staff?

25 A HR and DM.

1 Q Who made the final decision regarding
2 promoting staff?

3 A HR and DM.

4 Q Who made the final decision regarding
5 setting payroll?

6 A HR and DM.

7 Q Who made the final decision regarding
8 setting budget?

9 A Corporate, HR and DM.

10 Q Who made the final decision regarding
11 promoting staff?

12 A HR and DM.

13 Q Who made the final decision regarding
14 evaluating staff?

15 A I'm sorry?

16 Q I'm sorry, evaluating staff?

17 A It was a Rite Aid policy they had to be
18 evaluated, and the DM would send out -- it usually was
19 done on the anniversary date, that's according to the
20 policies and procedures -- and you would get a SYSM
21 down maybe saying this was due or so-and-so's
22 evaluation was due.

23 And then you had a printout or a list
24 saying, this is whose evaluation is done. Yes.

25 Q Would the district manager have to approve

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1 the evaluations?

2 A Yes, that was in order to determine the pay
3 rate and everything. They would tell you how much you
4 need to give them and so forth.

5 Q When you were salaried as a store manager
6 at Rite Aid, were you paid for the time that you worked
7 overtime?

8 A No, not when you're salaried.

9 Q How many hours a week on average did you
10 work overtime, while you were salaried, as a store
11 manager at Rite Aid?

12 A About 50, 60 sometimes, a week.

13 Q So 50 or 60 total?

14 A 50 to 60.

15 Q And how many hours were you salaried for, 45?

16 A Yes.

17 MS. SCOTT: All right. That's all that I have.

18 MS. PUCKETT: Okay. Just brief follow-up.

19 THE WITNESS: Okay.

20 EXAMINATION BY MS. PUCKETT:

21 Q I don't know the exhibit numbers, either.
22 Let's see, the evaluation of Miss Moore, the assistant
23 manager, that is Exhibit Number --

24 A 7.

25 Q -- number 7?

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CERTIFICATE OF DEPONENT

I hereby certify that I have read and examined the foregoing transcript, and the same is a true and accurate record of the testimony given by me.

Any additions or corrections that I feel are necessary, I will attach on a separate sheet of paper to the original transcript.

VICKY DIXON